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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

RUDY, ANDREW J

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 05/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/519,008

Applicant(s)

MCAULAY ET AL.

Examiner

Andrew Joseph Rudy

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-34 are pending.
2. The amendment received March 4, 2002 is objected to. The captioned version does not include the spelling errors contained on page 19, line 1 “fo a entetainment”; and the correct mark-ups to the claims (e.g. see claims 1 and 16) in juxtaposition with the originally submitted claims. Correction is required.
3. Claims 1-3, 6-8, 11, 14, 15-18, 24-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiman. To provide at least one graphic user interface (GUI) and a plurality of peripheral user devices, audio speakers, hardware and software for playing music, coupled to the entertainment unit (IT1), would have been obvious to one of ordinary skill in the art. Doing so would use well known equipment to facilitate implementation of the distribution of music for Kleiman. Also, regarding claim 8, Kleiman keeps a log of activity of which playlist is being performed by keeping statistics (col. 9, lines 40+).

Applicants claim language does not preclude the fact that Kleiman’s jukebox stores selected virtual electronic titles that fully encompasses the present claim language. The comments regarding Kleiman’s playlist is noted, but not convincing. Is Applicants’ playlist

infinite? There is no indication of such from Applicants' specification. If not, the instant application suffers from a limited capability to provide a subset of available music on demand as Kleiman allegedly would. Also, Applicants' comments regarding a master list of all songs is not persuasive as no such language appears in the claims. The playlist of entertainment content music of Kleiman is considered on demand, as one orders the selected play and listens to it in due course. Applicants claim language does not define over the Kleiman concept. The use of a local area network (LAN) and/or wide area network (WAN) to convey data from a source to an end user employing a computer screen having speakers is well known in the art. Likewise, whether the entertainment is music or a game would have been obvious to one of ordinary skill in the art. To use a LAN and/or WAN or games for Kleiman would have been obvious to one of ordinary skill in the art.

4. Claims 1-3, 6-8, 11, 14, 15-18, 24-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Official Notice referenced from page 3, paragraph number 6. Applicants do not traverse with any specificity the rejection proffered from this line of reasoning. As is, Applicants response is not convincing.

5. Claims 5, 9, 12, 13 and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kleiman as applied to claims 1-3, 6-8, 11, 14-18 and 24-34 above, and further in view of Bernstein. Applicants basic premise regarding Kleiman is not convincing. The master list of

Kleiman reads upon Applicants' claim language. To modify Kleiman by providing a recognition device and card reader as disclosed by Bernstein, would have been obvious to one of ordinary skill in the art. Also, using well known infrared (IR) data transfer means would have been obvious to one of ordinary skill in the art. Doing so would provide well known identity recognition, content processing means and data transfer means for the system of Kleiman.

6. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Billock et al., U.S. Patent No. 6,314,575. To provide the identification of subscribers or non-subscribers to use Applicants' enumerated group, e.g. claim 5, would have been obvious to one of ordinary skill in the art. Doing so would provide Billock with well known identifier means with which to implement Billock's entertainment system. The use of a local area network (LAN) and/or wide area network (WAN) to convey data from a source to an end user employing a computer screen having speakers is well known in the art. Likewise, whether the entertainment is music or a game would have been obvious to one of ordinary skill in the art. To use a LAN and/or WAN or games for Billock would have been obvious to one of ordinary skill in the art.

7. Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook, U.S. Patent No. 5,860,068. Cook discloses the data product to be transferred over a computer network. Cook specifically references WAN and/or LANS and customers identity and tracking devices.

Cook further notes his invention may encompass such technology known or further developed technology to implement his idea. To provide the identification of subscribers or non-subscribers to use Applicants' enumerated group, e.g. claim 5, would have been obvious to one of ordinary skill in the art. Doing so would provide Cook with well known identifier means with which to implement Cook's entertainment system. The use of a local area network (LAN) and/or wide area network (WAN) to convey a master list of data, either music or a game, would have been obvious to one of ordinary skill in the art. Doing so would implement well known technology to execute Cook's inventive concept.

8. Further references of interest:

Dugan et al., U.S. Patent No. 6,363,411, discloses in Fig. 5b a LAN connected to a WAN and a GUI along with memory.

Nguyen et al., U.S. Patent No. 6,304,915, discloses a data transfer system.

Gordon et al., U.S. Patent No. 6,314,573, discloses a subscription on demand services.

Chaddha et al., U.S. Patent No. 6,173,317, discloses displaying content over LANS and/or WAN.

Kikinis, U.S. Patent No. 6,163,795, discloses distributing video over a WAN.

Kamiya, U.S. Patent No. 5,899,699, discloses a karaoke network.

Dunn et al., U.S. Patent No. 5,861,906, discloses a video on demand system.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 703-308-7808.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7239 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

May 6, 2002

Andrew Joseph Rudy

Richard Chilcot
Richard Chilcot
Supervisory Patent Examiner
Technology Center 2850
3627